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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SHASTA STRATEGIC INVESTMENT
FUND, LLC; and PRESIDIO GROWTH
LLC (Tax Matters Partners), *et al.*,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

And All Related Cases

CASE NO. C-04-4264-RS

Related to Cases No. C-04-4309-RS, C-04-4398-
RS, C-04-4964-RS, C-05-1123-RS, C-05-1996-
RS, C-05-2835-RS, and C-05-3887-RS

DECLARATION OF ROBERT PFAFF IN
SUPPORT OF PETITIONERS' OPPOSITION
TO RESPONDENT'S MOTION FOR
SUMMARY JUDGMENT

Date: June 20, 2013
Time: 1:30 p.m.
Place: Courtroom 3, 17th Floor
Hon. Richard Seeborg

1 I, Robert Pfaff, declare as follows:

2 1. I was an officer of Presidio Advisory Services, LLC, and have personal
3 knowledge of the following:

4 2. I was convicted of several counts of tax evasion following the trial in *United*
5 *States v. Stein*. I was acquitted of the main conspiracy in that case, which included allegations
6 that the entire BLIPS investment program was illegal. I did not testify at trial. I am now serving
7 a 97-month prison sentence.

8 3. Presidio Advisory Services, LLC managed both Presidio Growth, LLC and
9 Presidio Resources, LLC (collectively, “Presidio”).

10 4. Presidio Growth, LLC was the managing member and tax matters partner of a
11 number of strategic investment funds or “SIFs.” These SIFs included, among others, Belford
12 Strategic Investment Fund, LLC, Sanford Strategic Investment Fund, LLC, Shasta Strategic
13 Investment Fund, LLC, Sill Strategic Investment Fund, LLC, and the other funds involved in the
14 above-captioned action. Each of these SIFs was structured in the same way and exhibits
15 regarding Belford Strategic Investment Fund, LLC would be representative of the manner in
16 which all funds were structured.

17 5. Along with Presidio Growth, LLC, Presidio Resources, LLC was another member
18 in these SIFs, along with a third member who was a client-owned LLC. This client-owned LLC
19 contributed the majority of capital to the partnership and owned a 90% interest in the company.
20 The SIFs set out to undertake a series of transactions under the Bond Linked Issue Premium
21 Structure (“BLIPS”) program designed to provide investment returns for the principals.

22 6. I do not believe these transactions were a “sham” or an illegal “tax shelter.”
23 They were transactions, based on the Internal Revenue Code provisions, which had the
24 possibility (predicted by tax experts at KPMG, Brown & Wood and elsewhere as “more likely
25 than not”) to be entitled to favorable tax treatment. I do not believe that they fit the Internal
26 Revenue Code definition of “tax shelter.” Presidio received a legal opinion from Holland & Hart
27 on this issue as well.

28 7. The various transactions concerning the BLIPS investments were well-

1 documented, and all of this documentation has been provided to the government and others in the
2 dozen years since these investments were completed. To understand the facts concerning the
3 transactions, one need only review and understand the deal documents.

4 8. Presidio recruited David Amir Makov to conceive and to execute the BLIPS
5 investment strategy. We understood Mr. Makov to be a highly successful investment manager,
6 particularly skilled with derivatives. He received a great deal of money for his expertise and
7 work at Presidio.

8 9. Mr. Makov frequently assured me that the BLIPS investment program had a
9 reasonable chance of making a profit, over and above fees and costs. He explained the program
10 and I believed him. As shown in the documentation, he explained to me and to investors that
11 many currencies had broken their pegs in the 1990s and that investors who had trades that were
12 short sales of those currencies made very good returns. I continue to believe that the program
13 had a reasonable chance of making a profit. Had the currency peg for the Argentine peso broke
14 when Presidio and the SIFs were invested in the BLIPS investment program (as opposed to a
15 year or so later), I believe all investors and Presidio would have made a large amount of money.

16 10. I understand that the BLIPS program offered investors a low probability of very
17 large profits, which is an investment choice that many investors, particularly wealthy investors,
18 rationally make all the time. I understood that these type of investments were high-risk, high-
19 reward and those with the right investment at the right time could make a good deal of money if
20 the foreign currency broke its peg and devalued. I also understood that, as with all high-risk
21 transactions, this could result in an investor not making any profit, or losing most or all of his
22 money.

23 11. It was my understanding that each SIF made it clear that the client-owned LLC
24 and its member were not looking to any Presidio entity for tax advice relating to any of the tax
25 implications of participating in the SIF. KPMG and Brown & Wood provided lengthy legal
26 opinion letters concerning the predicted tax treatment of the investment program, including that
27 the investments met the IRS standards for economic substance. Presidio relied on those
28 opinions. Moreover, it was and is my understanding that many investors had their own financial

and tax advisors as well.

12. It was my and Presidio's understanding that the loan was important for the hoped-for tax benefits, but it was also important as a source of collateral for the risky foreign currency investments. I believed at the time, and continue to believe today, that major banks would not permit investors to enter the BLIPS large currency forward contracts without significant collateral on deposit.

13. I also believe that a so-called “premium loan” is one of many kinds of loan arrangements that an investor can rationally choose. Mr. Makov explained this to some extent in his deposition. KPMG’s Washington National Tax Practice and Brown & Wood opined that it was more likely than not that premium loans in certain circumstances could lead to tax benefits and I believed in them and in their analysis. In particular, I was with KPMG’s tax practice for over twenty years, twelve as a tax partner. I learned that I could rely upon the advice of Washington National Tax. Never once in this twenty year history did I witness an error in judgment or in the tax law by this esteemed group. I disclosed all relevant facts to Washington National Tax and therefore believed that I could rely upon the advice they gave concerning the tax treatment of BLIPS.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Sheridan, Oregon on April 18, 2013.

/s/ Robert Pfaff

Robert Pfaff

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CIVIL L.R. 5-1(i)(3) ATTESTATION OF CONCURRENCE OF SIGNATORY

Pursuant to L.R. 5-1(i)(3), I hereby attest that concurrence in the electronic filing of this document has been obtained from the signatory.

Dated: April 18, 2013

By /s/ Steven M. Bauer
Steven M. Bauer
Attorneys for Petitioners